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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ROSEN MARIANO, an individual,

Plaintiff,

vs.

THE CITY OF LAS VEGAS, a political
subdivision of the State of Nevada;
CORRECTIONAL HEALTHCARE
COMPANIES, INC., a foreign corporation;
CORRECT CARE SOLUTIONS, LLC, a
foreign limited liability company;
MICHELE FREEMAN, Chief of Detention
Enforcement for the City of Las Vegas;
CORRECTION OFFICER DOE 1-10;
HEALTHCARE WORKER DOES 11-20;
DOES 21-99; inclusive; ROE
CORPORATIONS 100-199, inclusive,

Defendants.

CASE NO.: 2:18-CV-01911-APG-EJY

**STIPULATION AND ~~PROPOSED~~
ORDER TO STAY DISCOVERY
DEADLINES**

**(First Request to Stay Discovery
Deadlines)**



**STIPULATION AND ~~[PROPOSED]~~ ORDER TO STAY DISCOVERY
DEADLINES**

(First Request to Stay Discovery Deadlines)

IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiff, ROSEN MARIANO, by and through his counsel of record, Dennis M. Prince and Andrew R. Brown of PRINCE LAW GROUP and Keith E. Galliher of THE GALLIHER LAW FIRM, Defendant CORRECT CARE SOLUTIONS, LLC, by and through its counsel of record, S. Brent Vogel and Melanie L. Thomas of LEWIS BRISBOIS BISGAARD & SMITH, and Defendants CITY OF LAS VEGAS and MICHELE FREEMAN, by and through their counsel of record, Bradford R. Jerbic and John A. Curtas of LAS VEGAS CITY ATTORNEY'S OFFICE, to, pending this Court's approval, stay the discovery deadlines in the current Discovery Plan and Scheduling Order. The parties hereby submit this Stipulation in good faith and in accordance with LR IA 6-1 and LR 7-1. Moreover, pursuant to LR 26-3, good cause supports the parties' request to stay the discovery deadlines as set forth below. This is the parties' first request to stay discovery deadlines.

A. Discovery Completed by the Parties

1. On November 9, 2018, Plaintiff filed his First Amended Complaint in the United States District Court, Clark County, Nevada.
2. On November 26, 2018, Defendants City of Las Vegas and Michele Freeman filed their Answer to Plaintiff's First Amended Complaint.
3. On January 8, 2019, Defendant Correct Care Solutions, LLC filed its Answer to Plaintiff's First Amended Complaint.
4. On January 10, 2019, Plaintiff served his Initial Disclosure Statement and Witness List Pursuant to FRCP 26.
5. On March 10, 2019, Plaintiff served his Third Supplement to the Designation of Expert Witnesses.

6. On March 17, 2019, Plaintiff served his Fourth Supplement to the Designation of Expert Witnesses.
7. On April 8, 2019, Plaintiff served his Responses to Defendant Correct Care Solutions, LLC's Request for Production of Documents.
8. On April 8, 2019, Plaintiff served his Answers to Defendant Correct Care Solutions, LLC's Interrogatories.
9. On May 9, 2019, Defendant Correct Care Solutions, LLC took the deposition of Plaintiff.
10. On May 24, 2019, Plaintiff served his First Supplemental Disclosure Statement and Witness List Pursuant to FRCP 26.
11. On October 1, 2019, Plaintiff served his Second Supplemental Disclosure Statement and Witness List Pursuant to FRCP 26.
12. On November 19, 2019, Plaintiff served his Third Supplemental Disclosure Statement and Witness List Pursuant to FRCP 26.
13. On November 27, 2019, Defendant Correct Care Solutions, LLC served its Initial Expert Disclosure.
14. On November 27, 2019, Plaintiff served his Initial Designation Of Expert Witnesses.
15. On December 17, 2019, Plaintiff served his Fourth Supplemental Disclosure Statement and Witness List Pursuant to FRCP 26.
16. On December 30, 2019, Plaintiff served his Fifth Supplemental Disclosure Statement and Witness List Pursuant to FRCP 26.
17. On January 2, 2020, Plaintiff served his First Supplement to the Designation of Expert Witnesses.
18. On January 8, 2020, Plaintiff served his Second Supplement to the Designation of Expert Witnesses.

19. On January 8, 2020, Plaintiff served his Sixth Supplemental Disclosure Statement and Witness List Pursuant to FRCP 26.
20. On February 4, 2020, Plaintiff served his Seventh Supplemental Disclosure Statement and Witness List Pursuant to FRCP 26.
21. On February 6, 2020, Defendant Correct Care Solutions, LLC served its First Supplemental Rebuttal Expert Disclosure.
22. On March 7, 2020, Plaintiff served his Third Supplement to the Designation of Expert Witnesses.
23. On March 17, 2020, Plaintiff served his Eighth Supplemental Disclosure Statement and Witness List Pursuant to FRCP 26.
24. On March 17, 2020, Plaintiff served his Fourth Supplement to the Designation of Expert Witnesses.
25. On August 25, 2020, Plaintiff served his Tenth Supplemental Disclosure Statement and Witness List Pursuant to FRCP 26.
26. On December 17, 2021, Plaintiff served Plaintiff's First Set of Requests for Production of Documents to Defendant Correct Care Solutions, LLC. Defendant Correct Care Solutions, LLC served its responses to these requests on January 18, 2022. However, Defendant Correct Care Solutions, LLC did not respond to Plaintiff's Requests for Production numbers 7 – 13. On March 30, 2022, Defendant Correct Care Solutions, LLC served its Supplemental Responses to Plaintiff's First Set of Requests for Production of Documents, which included responses to Plaintiff's request numbers 7 – 12. On April 8, 2022, Defendant Correct Care Solutions, LLC served its Second Supplemental Responses to Plaintiff's First Set of Requests for Production of Documents. To date, Defendant Correct Care Solutions, LLC has not responded to Plaintiff's Request for

1 Production number 13, but has agreed to do so, representing the
2 earlier failure was inadvertent and was the result of a mistake
3 versus intentional.

4 27. Plaintiff completed the deposition of the FRCP 30(b)(6) designee for
5 Defendant Correct Care Solutions, LLC (Brady Cornelius on March
6 2, 2022.

7 **B. Discovery to be Completed by the Parties**

- 8 1. Plaintiff will notice the deposition of the Person Most Knowledgeable
9 regarding policies and procedures.
10 2. The parties will depose their respective expert witnesses.
11 3. Plaintiff will notice the depositions of Defendants.
12 4. The parties will disclose rebuttal expert designations.
13 5. Plaintiff would like to disclose an expert on the issue of Defendants'
14 policies and procedures and the adequacy of Defendants' policies and
15 procedures.

16 The parties anticipate that they may need to conduct other forms of discovery not
17 specifically delineated herein on an as-needed basis. Therefore, the list outlined above
18 is in no way intended to be a comprehensive list of the outstanding discovery that
19 remains to be completed.

20 **C. Reasons Why Remaining Discovery Was Not Completed Within the**
21 **Time Limits Set Forth By the Discovery Plan**

22 This Request to stay discovery deadlines is not sought for any improper purpose
23 or other purpose of delay. This request for the stay is based upon the following:

24 Pursuant to the Order (1) Granting in Part Motion for Summary Judgment and
25 (2) Reopening Discovery dated August 20, 2021, the court re-opened discovery, regarding
26 Defendants applicable policies and procedures. On September 17, 2021, the parties
27 submitted a First Amended Discovery Plan and Scheduling Order [71], which was signed
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1 by Magistrate Judge Elayna Youchah. However, pursuant to the Minute Order in
2 Chambers [73], dated September 27, 2021, the Court set a telephonic hearing to discuss
3 pending discovery issues. On October 1, 2021, a hearing was held before the Magistrate
4 concerning the Amended Proposed Discovery Plan [71]. Pursuant to the Minutes of
5 Proceedings [74], the Court extended the discovery deadlines as set forth below. On
6 October 8, 2021, counsel for Defendant Correct Care Solutions produced the applicable
7 policies and procedures to Plaintiff's counsel via e-mail. Those policies and procedures
8 were then formally supplemented on January 18, 2022, in Defendant Correct Care
9 Solutions' seventh supplement to FRCP 26(a)(1)(c) disclosure, as "Correct Care
10 Solutions' 2016 Adult Jail Policy Set, Bates Nos. CCS-2016Policy 00001-00367,
11 CONFIDENTIAL-ATTORNEY'S EYES ONLY."

12 On November 1, 2021, a hearing was held before Magistrate Judge Youchah.
13 During that hearing, Wellpath (aka Correct Care Solutions) was ordered to produce all
14 policies and procedures within seven (7) days (November 8, 2021).

15 On December 14, 2021, Dennis M. Prince, Esq., attorney for Plaintiff, attempted
16 to contact John M. Orr, Esq., counsel for Defendant Correct Care Solutions, to follow up
17 regarding Plaintiff's receipt of the applicable policies and procedures. Mr. Prince was
18 informed that Mr. Orr had left the firm of Lewis Brisbois Bisgaard & Smith. In response
19 to Mr. Prince's inquiry, Brent Vogel, Esq. of Lewis Brisbois Bisgaard & Smith advised
20 he was requesting the applicable policies and procedures. In its seventh supplement to
21 FRCP 26(a)(1)(c) disclosure, served on January 18, 2022, Defendant Correct Care
22 Solutions, LLC produced a document entitled "Correct Care Solutions' 2016 Adult Jail
23 Policy Set, Bates Nos. CCs-2016Policy 00001-00367, CONFIDENTIAL-ATTORNEY'S
24 EYES ONLY."

25 However, in its original responses to Plaintiff's First Set of Requests for
26 Production of Documents, Defendant Correct Care Solutions, LLC did not respond to
27 Plaintiff's request for production numbers 7 – 13. These requests sought, *inter alia*, the
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1 various policies and procedures that Defendant Correct Care Solutions, LLC had in effect
2 in October 2016. On March 30, 2022, and April 8, 2022, Defendant Correct Care
3 Solutions, LLC served supplemental responses to Plaintiff's First Set of Requests for
4 Production of Documents. In its eighth supplement to FRCP 26(a)(1)(c) disclosure, served
5 on April 8, 2022, Defendant Correct Care Solutions, LLC produced the following
6 documents: (1) "CS 2016-2019 Policies and Procedures, Bates Nos. MARIANO – CCS
7 2016-2019 POLICIES 00001-000369;" (2) "Correct Care Solutions 2014 Policies and
8 Procedures, Bates Nos. MARIANO CCS 2014 POLICIES 000001-000228;" and (3) the
9 "complete transcript of training history" for multiple named employees. To date,
10 Defendant Correct Care Solutions, LLC has not responded to Plaintiff's request for
11 production number 13, which seeks all policies and procedures regarding "referral of a
12 patient from a correctional facility to a hospital including emergency room in effect in
13 October 2016." Counsel for Correct Care Solutions, LLC has agreed to serve this
14 remaining response and has represented that it will be a reference back to the same
15 responsive policies and procedures produced to counsel back on October 8, 2021.

16 On May 25, 2022, Andrew R. Brown, Esq., attorney for Plaintiff, had a telephonic
17 conference with Melanie L. Thomas, Esq., attorney for Defendant Correct Care
18 Solutions, LLC, regarding a potential stipulation to reopen the initial expert disclosure
19 deadline. During the call, Mr. Brown explained that Plaintiff's position is he was
20 prejudiced by Defendant Correct Care Solutions, LLC's untimely disclosure of the
21 requested policies and procedures, as well as the requested employee training histories.
22 The initial expert disclosure deadline closed on February 28, 2022. On December 17,
23 2021, Plaintiff served his First Set of Requests for Production of Documents. Defendant
24 Correct Care Solutions, LLC did not serve its supplemental responses to these requests
25 until March 30, 2022 and April 8, 2022, respectively. In this regard, Plaintiff's position
26 is that Defendant Correct Care Solutions, LLC's untimely responses to Plaintiff's written
27 discovery, and disclosure of additional policies and procedures after the initial expert
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1 disclosure deadline passed, prevented Plaintiff from retaining an expert opine on these
2 issues. Defendant Correct Care Solutions, LLC disagrees with this position given its
3 October 8, 2021 disclosure of the policies and procedures it claims were in effect at the
4 time of the subject incident. It is also Plaintiff's position that the untimely disclosure of
5 this information prevented Plaintiff from asking questions regarding these policies
6 during the deposition of Defendant Correct Care Solutions, LLC's FRCP 30(b)(6)
7 designee on March 2, 2022. Moreover, to date, Defendant Correct Care Solutions, LLC
8 has not responded to Plaintiff's request for production number 13, which seeks policies
9 and procedures in effect at the time of the subject incident. It is Plaintiff's position that
10 a short, two-month, extension of the initial expert disclosure deadline would mitigate the
11 harm he suffered in this regard.

12 During the May 25, 2022 telephonic conference, Ms. Thomas stated that
13 Defendant Correct Care Solutions, LLC will not stipulate to reopen the initial expert
14 disclosure deadline. Ms. Thomas stated it is Defendant Correct Care Solutions, LLC's
15 position that the policies and procedures in effect at the time of the subject incident had
16 already been disclosed, and that the newly produced policies and procedures are those
17 that were in effect before and after the subject incident. Ms. Thomas also stated that
18 Defendant Correct Care Solutions, LLC would not stipulate to reopen initial expert
19 disclosures to permit Plaintiff's expert to opine on what she characterized as subsequent
20 remedial measures. As such, the parties did not reach an agreement regarding the
21 reopening of initial expert disclosure deadline.

22 After being unable to reach an agreement, Mr. Brown informed Ms. Thomas that
23 Plaintiff intends to file a motion seeking to reopen the initial expert disclosure deadline.
24 As such, the parties agreed to stay all discovery deadlines pending resolution of
25 Plaintiff's forthcoming motion. Staying the discovery deadlines pending resolution of this
26 issue will ensure the parties will not be harmed, or rushed, while the issue regarding the
27 initial expert disclosure deadline is being resolved. Furthermore, staying the current
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1 discovery deadlines will prevent the parties from potentially filing additional
2 stipulations to extend discovery pending resolution of the initial expert disclosure issue.
3 Plaintiff will file the subject motion within fourteen (14) days after the entry of the
4 Court's order. The parties are entering this stipulation because while they were unable
5 to reach an agreement on the underlying dispute, and they recognize each side has
6 important arguments supporting their position, such that maintaining the status quo
7 pending the Court's ruling on this dispute, would best preserve and limit the potential
8 resultant prejudice of proceeding in the absence of the Court's ruling on this issue.

9 This Request for an extension of time is not sought for any improper purpose or
10 other purpose of delay. Rather, it is sought by the parties solely for the purpose of
11 allowing sufficient time to allow briefing on the current dispute and for the Court's
12 intervention such that the necessary remaining discovery can be streamlined,
13 parameters for experts established with finality, and the opportunity to adequately
14 prepare their respective cases for trial. This is the first request to stay discovery
15 deadlines in this matter. The parties respectfully submit that the reasons set forth above
16 constitute compelling reasons and good cause for the short extension.

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WHEREFORE, the parties respectfully request that this Court stay all discovery deadlines.

DATED this 31st day of May, 2022.

PRINCE LAW GROUP

/s/ Andrew R. Brown

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Attorneys for Plaintiff

DATED this 31st day of May, 2022.

LEWIS BRISBOIS BISGAARD & SMITH

/s/ Melanie L. Thomas

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Attorneys for Defendant

Correct Care Solutions, LLC

DATED this 31st day of May, 2022.

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Attorneys for Defendants

City of Las Vegas and Michelle Freeman

IT IS SO ORDERED.

Clayton J. Zouchak

U.S. MAGISTRATE JUDGE

Dated: June 1, 2022